

**Notice of Allowability**

Application No.

10/621,296

Examiner

Deborah K. Ware

Applicant(s)

VISCOMI ET AL.

Art Unit

1651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/28/05.
2. ☒ The allowed claim(s) is/are 11, 12 and 15-26.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                                 |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>5/27/05</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment   |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance                                   |
|   | 9. <input type="checkbox"/> Other _____   |

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### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Peggy Dougan on behalf of Joseph Orlando on May 27, 2005.

#### In the abstract

at line 6, after "LMG P-21587" inserted --and deleted "to their use" and inserted --They are used--,

at lines 8-9, deleted "type and to the preparations of pharmaceutical or alimentary type containing them useful" and inserted --products-- .

#### In the claims

claim 15, line 1, deleted "Preparations of" and inserted --A--and further deleted "type" and inserted --preparation--,

, line 2, deleted "colony forming units of",

, line 3, after "10<sup>11</sup>" inserted --colony forming units--and further deleted "alive" and inserted --live--;

claim 16, line 1, deleted "Preparations of" and inserted --A--and further deleted "type" and inserted --preparation--,

, line 2, deleted "colony forming units of",

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, line 3, after "10<sup>11</sup>" inserted —colony forming units—and further deleted "alive" and inserted —live--;

claim 17, line 1, deleted "Preparations" and inserted —Preparation—and further deleted "characterized in that they" and inserted —comprising--,

, line 2, deleted "contain a prebiotic in the shape of";

claim 18, line 1, deleted "Preparations" and inserted —Preparation—and further deleted "characterized in that" and inserted —wherein--;

claim 19, line 1, deleted "Preparations" and inserted —Preparation—and further deleted "characterized in that they" and inserted —comprising--,

, line 2, deleted "contain a prebiotic in the shape of";

claim 20, line 1, deleted "Preparations" and inserted —Preparation—and further deleted "characterized in that" and inserted —wherein--;

claim 21, line 1, deleted "Preparations" and inserted —Preparation— and further deleted "characterized in that they" and inserted —comprising--,

, line 2, deleted "contain";

claim 22, line 1, deleted "Preparations" and inserted —Preparation—and further deleted "characterized in that" and inserted —wherein--,

, line 2, deleted "the" and inserted —selected from the group consisting of-- ;

Claim 23, line 1, deleted "Preparations" and inserted —Preparation—and further deleted "characterized in that they" and inserted —comprising--,

, line 2, deleted "contain" ;

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Claim 24, line 1, deleted "Preparations" and inserted –Preparation—and further deleted "characterized in that" and inserted –wherein--,

, line 2, deleted "the" and inserted –selected from the group consisting of-- ;

Claim 25, line 1, deleted "Preparations" and inserted –Preparation—and further deleted "characterized in that they" and inserted –in a form--,

, line 2, deleted "are" and after "selected from" inserted –the group consisting of--;

Claim 26, line 1, deleted "Preparations" and inserted –Preparation—and further deleted "characterized in that they" and inserted –in a form--,

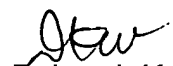
, line 2, deleted "are" and after "selected from" inserted –the group consisting of--.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deborah K. Ware whose telephone number is 571-272-0924. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Wityshyn can be reached on 571-272-0926. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Deborah K. Ware  
May 27, 2005

  
DAVID M. NAFF  
PRIMARY EXAMINER  
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